

Washington Real Estate Law Curriculum



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FINAL DRAFT - Effective January 1, 2000

WASHINGTON REAL ESTATE LAW CURRICULUM

Required Topics and Recommended Instructional Hours

1. The Importance of Real Estate Law on Real Estate Transactions	.5 hour
2. Sources of the Law	(1.0 hours)
3. Real Property and the Bundle of Rights	1.0 hour
4. Legal Descriptions	1.0 hour
5. Estate and Interest in Lands	2.0 hours
6. Forms of Ownership	(3.0 hours)
7. Conveyances	2.0 hours
8. Contract Law	(3.0 hours)
9. The Purchase and Sale Agreement	2.0 hours
10. Financing of Real Estate and Security Instruments	2.5 hours
11. Foreclosure in Washington State	1.0 hour
12. Federal Statutes Affecting Real Estate	3.0 hours
13. Washington State Statutes Affecting Real Estate	1.0 hour
14. RCW 18.86 - The Real Estate Brokerage Relationships Act	2.0 hours
15. The Police Power of Local Government	1.0 hour
16. Regulation of the Real Estate Industry	1.0 hour
17. The Landlord-Tenant Act	2.0 hours
18. Title, Escrow, Recordation and Title Insurance	1.0 hour

SUPPLEMENTAL TOPIC AREA (Recommended as “advanced” curricula)

19. Going to Court in Washington State

(1.0 hour)

**REVISED “DISCUSSION DRAFT”
FIFTH REVISION - JUNE 1999**

LEARNING OBJECTIVES - Washington Real Estate Law

The Importance of Real Estate Law on Real Estate Transactions

(.5 hr.)

Upon completion of this section, the student should be able to:

1. Become familiar with the role that laws and the legal system play in real estate sales.
2. Identify the basic legal pitfalls that affect the success of real estate licensees.
3. Describe the interrelationship between the “law” and real estate as a profession, i.e., the standards to which a real estate licensee will be held.
4. Describe how the judicial system is structured in Washington State, and how it works.

Sources of the Law

(1.0 hrs.)

Upon completion of this section, the student should be able to:

1. Explain the differences between statutory law and agency rule making as they affect real estate practice.
2. Explain how the judicial system works to interpret and apply existing laws, while developing new ones.
3. Describe alternative methods for conflict resolution in real estate matters.

SUPPLEMENTAL LEARNING OBJECTIVES (Recommended as “advanced” curricula)

1A. Identify the four basic sources of law and describe how they work together.

2A. Describe the basic doctrines contained in English common law which affect real estate today.

3A. Describe how the Fourth, Fifth, Thirteenth, and Fourteenth amendments to the U.S. Constitution affect the practice of real estate today.

4A. Describe how case law has affected the practice of real estate over the past 50 years.

Real Property and the Bundle of Rights

(1.0 hr.)

Upon completion of this section, the student should be able to:

1. Differentiate between real property and personal property.
2. Describe the methods by which personal property can become real property.
3. Describe how each type of appurtenance affects ownership rights in real estate.
4. Describe how ownership rights in real estate can be lost or forgone.

SUPPLEMENTAL LEARNING OBJECTIVES (Recommended as “advanced” curricula)

1A. Describe the elements that make up the concept of real property.

2A. List the rights and duties that go with the ownership of real property.

3A. Describe the origin of each “stick” in the bundle of rights and how they collectively build up to fee simple ownership.

Legal Descriptions

(1 hr.)

Upon completion of this section, the student should be able to:

1. Describe the four methods for legally describing real property and how they are applied throughout the United States.
2. List the common problems found in legal descriptions and how they are normally resolved.

3. Describe the liabilities and legal consequences of misrepresenting boundaries.
4. Describe the methods for curing an encroachment.

SUPPLEMENTAL LEARNING OBJECTIVE (Recommended as “advanced” curricula)

1A. Describe how fixtures on the land can be made part of the real property.

Estates and Interests in Land

(2.0 hrs.)

Upon completion of this section, the student should be able to:

1. Describe the differences between fee and life estates, how each can be qualified to meet the needs of the people involved, and how one can be converted into the other.
2. Describe how the two statutory estates used in Washington State affect the holding of real property.
3. Describe how community property estates are treated in Washington State, with and without a will and with and without a community property agreement.
4. Describe the four types of leasehold estates recognized in Washington State.
5. Describe how easements, deed restrictions, liens, and encroachments affect ownership rights in real estate and how these encumbrances may be removed.
6. Describe how an owner of real property can overcome the two laws governing adverse possession in Washington State.
7. Describe the four rights that belong to government and how they affect real estate holdings.
8. Distinguish between a license and an interest in land.
9. Describe how surface, subsurface, and air rights can be conveyed, retained, or utilized in innovative real estate transactions.
10. Describe the process for creating a “homestead” under RCW 6.13.

SUPPLEMENTAL LEARNING OBJECTIVE (Recommended as “advanced” curricula)

1A. Describe how the state’s right of escheat works under RCW 11.08

**Forms of Ownership
(3.0 hrs.)**

Upon completion of this section, the student will be able to:

1. Describe how various types of business entities can own real estate and still be considered as being owned in severalty.
2. Differentiate between the rights and duties associated with joint tenancy as opposed to tenancy in common.
3. Define the concept of an “undivided interest” and how it affects both joint tenancy and tenants in common.
4. Define the four “unities” of a joint tenancy.
5. Define the “right of survivorship” of a joint tenancy and how RCW 64.28 applies this concept in Washington State.
6. Describe how a Limited Liability Company owns and holds real estate and what rights a member of such a company has with respect to such real estate.
7. Describe how a divorce may affect community property.
8. Describe the differences between a general partner and a limited partner in terms of liability and management control over real property.
9. Define “separate property” in Washington State in accordance with RCW 26.16 and describe how it may be converted into community property.
10. Describe the differences between ownership of a condominium, a townhouse, and a cooperative. Demonstrate familiarity with RCW 64.34 as it applies to condominium ownership.

SUPPLEMENTAL LEARNING OBJECTIVES (Recommended as “advanced” curricula)

1A. Distinguish between the “timeshare” and a fee simple estate in terms of rights.

2A. Describe the four types of trusts and how each can hold real property in this state.

Conveyances

(2.0 hrs.)

Upon completion of this section, the student will be able to:

1. Differentiate between a deed, a bill of sale, and a lease.
2. Describe the importance of the Statute of Frauds in real estate transactions.
3. Describe the five requirements for a valid deed.
4. Describe the types of consideration that are recognized in Washington State for a deed to be valid.
5. Describe the five covenants provided by a statutory warranty deed in Washington State.
6. Describe the different degrees of warranty implied by a bargain and sale deed, as opposed to a special warranty deed, or a quit claim deed.
7. Describe how a quit claim deed may be used to remove a cloud on a title.
8. Describe the various forms of wills that are recognized in Washington State for the transfer of real property.
9. Describe the conditions under which the probate of a will can be avoided in the transfer of real property.

SUPPLEMENTAL LEARNING OBJECTIVE (Recommended as “advanced” curricula)

1A. Describe why the State of Washington uses only the bargain and sale deed when conveying real property of the state.

Contract Law

(3.0 hrs.)

Upon completion of this section, the student will be able to:

1. Differentiate between a valid contract, a voidable contract, and a void contract.
2. Describe the five requirements for a legally valid (enforceable) contract.
3. Describe how an offer and a counteroffer affect the rights and duties of buyer and seller at each stage in reaching a valid contract.
4. Describe the ways in which a contract may be modified or terminated before it is fully executed.
5. Describe the five legal responses to a breach of contract.
6. Describe the legal limitations placed on a salesperson in preparing listing agreements, purchase and sale agreements, exchanges, and options on real property.
7. Describe the requirements contained in RCW 64.06.020 (Form 17) for residential disclosure.
8. Differentiate between RCW 4.08.100 and RCW 64.04.005 as they pertain to the disposition of earnest money in a terminated purchase and sale agreement.
9. Describe how valid contracts have been used in equity skimming and the penalties for such practice under RCW 61.34.
10. Describe the risks to the purchaser under a contract for deed (real estate contract) and how it falls short as a means of conveyance.
11. Outline the steps in forfeiture of a real estate contract under RCW 61.30.

The Purchase and Sale Agreement

(2 hrs.)

Upon completion of this section, the student will be able to:

1. Fill out a purchase and sale agreement that will meet the needs of his/her principal and be legally correct.
2. Describe how contingencies, such as sale of the buyer's home or financing, affect the rights and the duties of both buyer and seller.
3. Describe how inspection requirements (home as well as pest) can be clearly stated so that neither party will misunderstand the intent or obligations of the other.
4. Define for each paragraph of the purchase and sale agreement the source of common law, statute, or convention, on which it is based.
5. Describe the licensee's duties regarding presentation of single as well as multiple offers on the same property.

Financing of Real Estate and Security Instruments

(2.5 hrs.)

Upon completion of this section, the student will be able to:

1. Describe the requirements for a valid promissory note.
2. Describe how a real estate mortgage may be assigned or satisfied under RCW 61.16.
3. Demonstrate complete familiarity with the provisions of RCW 61.24 concerning the use of the deed of trust as a security instrument.
4. Describe why lenders in Washington State insist on using a deed of trust instead of a mortgage to secure debt on residential and commercial property.

5. Define the term: “naked title with power of sale”.
6. Describe the effect of an “alienation” or “due on sale” clause in a deed of trust.
7. Describe the effect of a “prepayment” clause in a deed of trust.
8. Describe the effect of an “acceleration” clause in a deed of trust.

SUPPLEMENTAL LEARNING OBJECTIVES (Recommended as “advanced” curricula)

1A. Define the concept of hypothecation.

2A. Outline those instances where a mortgage is normally used to secure debt on real property in Washington State.

Foreclosure in Washington State

(1.0 hr.)

Upon completion of this section, the student will be able to:

1. Differentiate between judicial and non-judicial foreclosure.
2. Outline the legal notice and time requirements for foreclosing on a deed of trust.
3. Describe the reinstatement rights the grantor of a deed of trust has up to the date of a trustee’s sale.
4. Describe the impact of non-judicial foreclosure on junior lien holders.
5. Describe the difference between a mortgage and a deed of trust with respect to a deficiency judgment.
6. Describe the process of conducting a Sheriff’s sale or a trustee’s sale and the legal ramifications on bidders at such events.

SUPPLEMENTAL LEARNING OBJECTIVES (Recommended as “advanced” curricula)

1A. Describe the steps in judicial foreclosure of a mortgage under RCW 61.12.

2A. Describe the mortgagor’s reinstatement and redemption rights.

3A. Describe the warranties provided by a Sheriff's Deed and a Trustee's Deed.

Federal Statutes Affecting Real Estate

(3.0 hrs.)

1. Upon completion of this section, the student will be able to:
2. Describe the purpose and scope of the Truth in Lending Act - Regulation Z.
3. Describe the purpose and scope of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and how it affects licensees in their everyday work.
4. Define "steering".
5. Define "red lining".
6. Define "block busting".
7. Describe the impact of the Civil Rights Act of 1866 on real estate sales.
8. Describe the impact of the 1988 amendment to the Civil Rights Act of 1968, as it applies to housing for the handicapped and people with children under the age of 18.
9. Describe the purpose and scope of the Americans with Disabilities Act (ADA).
10. Describe the purpose and scope of the Home Mortgage Disclosure Act.
11. Describe the purpose and scope of the Real Estate Settlement Procedures Act (RESPA).

SUPPLEMENTAL LEARNING OBJECTIVES (Recommended as "advanced" curricula)

1A. Describe the purpose and scope of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

2A. Describe the impact of the 1988 amendment to the Truth in Lending Act as it applies to adjustable rate mortgages (ARM).

3A. Describe the purpose and scope of the Equal Credit Opportunity Act.

4A. Describe the five programs for home financing homes under the National Housing Act.

5A. Describe the purpose and scope of the Fair Credit Reporting Act.

Washington State Statutes Affecting Real Estate

(1.0 hr.)

Upon completion of this section, the student will be able to:

1. Describe the provisions of RCW 49.60, Discrimination - Human Rights Commission, and how they apply to the practice of real estate.
2. Describe how honesty and fair dealing are promoted by each of the following:
 - RCW 30.40.500 (Fairness in Lending Act)
 - RCW 19.146 (Mortgage Broker Practices Act)
 - RCW 18.85 (Real Estate Broker and Salesperson License Law)
 - RCW 18.44 (Escrow Agent Registration Act)
 - RCW 18.140 (Real Estate Appraiser Act)
 - RCW 64.32 (Horizontal Property Regimes Act)**
 - RCW 64.34 (Washington Condominium Act)**
3. Readily refer to the 29 actionable offenses outlined in RCW 18.85.230 pertaining to real estate disciplinary activity
4. Describe the impact of state anti-discrimination laws on MLS membership and practices.
5. Describe the impact of state anti-discrimination laws on real estate advertising.
6. Describe the types of damages, both actual and punitive, that can evolve from discrimination suits.

RCW 18.86 – Real Estate Brokerage Relationships Act

(2.0 hrs.)

Upon completion of this section, the student will be able to:

1. Describe the relationship between an agent and a principal and the duties imposed on each.
2. Describe the five ways in which a licensee will not be assumed to represent the buyer.
3. Describe the seven duties that all licensees owe to all parties, whether buyers or sellers.
4. Describe the specific duties imposed on a Seller's Agent.
5. Describe the specific duties imposed on a Buyer's Agent.
6. Describe the specific duties imposed on a Dual Agent.
7. Describe how an agency relationship may be terminated.
8. Describe how compensation affects or does not affect an agency relationship.
9. Describe "vicarious liability" and how it affects licensees.
10. Describe how the concept of "imputed knowledge" affects "material facts".

The Police Power of Local Government

(1.0)

Upon completion of this section, the student will be able to:

1. Describe the roles played by the Council, the Planning Commission, and the Board of Adjustment in making land use decisions.
2. Describe the process leading to adoption of a comprehensive plan and development codes for a municipality.
3. Describe the requirements pertaining to subdivisions, short plats, binding site plans, and dedications as set forth in RCW 58.17.
4. Differentiate between the Planning Commission system and the Hearing Examiner system for rendering land use decisions.
5. Describe the conditions under which a variance is normally granted.
6. Describe the goals and mandates of the Growth Management Act, RCW 36.70A.

7. Describe the basic tenets of the Land Development Act, RCW 58.19.

SUPPLEMENTAL LEARNING OBJECTIVES (Recommended as “advanced” curricula)

1A. Describe the advantages and disadvantages of appealing a land use decision under the Land Use Petition Act, RCW 36.70C.

2A. Describe the statutory authority provided in RCW 36.70 for local governments to impose zoning and other land use controls.

3A. Describe the process outlined in RCW 4.84.370 for appealing a land use decision.

4A. Describe the contents of a Shoreline Master Program, as set forth in RCW 90.58 and WAC 173-16-040, and how the SMP fits with other planning documents.

Regulation of the Real Estate Industry

(1.0 hr.)

Upon completion of this section, the student will be able to:

1. Describe the hierarchy within Washington State government for regulating the real estate profession and the roles played by the Director of Licensing and the Real Estate Commission.
2. Describe the process leading to the discipline of a real estate broker or salesperson.
3. Describe the appeal rights available to a licensee facing disciplinary action.
4. Describe the requirements for licensure as a real estate salesperson, as set forth in WAC 308-124.
5. Describe the continuing education requirements for salespersons.
6. Describe the basic controls over mortgage brokers and loan originators, as set forth in WAC 208-660.

SUPPLEMENTAL LEARNING OBJECTIVE (Recommended as “advanced” curricula)

1A. Describe the requirements for registration as a timeshare salesperson, as set forth in WAC 308-127.

The Landlord-Tenant Act

(2.0 hrs.)

Upon completion of this section, the student will be able to:

1. Differentiate between the statutes governing commercial rental operations and those governing residential rental operations.
2. Describe the three forms of tenancies in residential rentals and how each may be originated.
3. Describe the rights and duties of the landlord.
4. Describe the rights and duties of the tenant.
5. Describe the process for unlawful detainer.
6. Describe the different notification requirements for rent increase, conversion to condominium, unsafe or unsanitary conditions, and eviction.
7. Readily access RCW 59.18 for guidance as to rental disputes and conflict resolution.

Title, Escrow, Recordation, and Title Insurance

(1.0 hr.)

Upon completion of this section, the student will be able to:

1. Describe the basic tenets of RCW 18.44, the Escrow Agent Registration Act.
2. Describe the duties of a Limited Practice Officer in performing escrow services.
3. Describe how title companies collect and maintain records of transactions affecting real estate.
4. Describe the “race” theory as it applies to recordation in Washington State.
5. Differentiate between a standard title policy and an extended title policy.
6. Describe how commissions are paid through an escrow transaction and what recourse a broker or a salesperson has regarding disputes over commission splits.

SUPPLEMENTAL TOPIC AREA (Recommended as “advanced” curricula)
Going to Court in Washington State
(1 hr.)

Upon completion of this section, the student will be able to:

- 1A. Describe the hierarchy of the court system in Washington State.***
- 2A. Describe the powers conferred on District courts as opposed to Superior courts as they relate to real estate.***
- 3A. Describe the requirements for responding to or filing a complaint with the County Clerk.***
- 4A. Describe the factors involved in making the decision to hire an attorney and when to do so.***
- 5A. Differentiate between a question of fact and a question of law.***
- 6A. Describe the three basis on which a case can be taken to an appellate court.***
- 7A. Describe the requirements for a writ of certiorari to the Washington State Supreme Court.***